IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

WP(C).No. 36966 of 2007(A)

PETITIONER:

P.K. SULAIMAN, S/O.KHADER RAWTHER,
PUNNEKKADU PARAMBU, KIZHAKKUMPURAM, MANNOOR,
PALAKKAD.

BY ADV. SRI.VINOD KUMAR.C

RESPONDENT:

MOHAMMED ABDUL KHADER,
S/O. ALI MOHAMMED HAJI, SHAM VILLA, MANNUR,
PALAKKAD.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.36966 OF 2007

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Dated this the 17th day of December 2007

JUDGMENT

This writ petition is filed challenging Exts.P4 and P5 orders. These applications were to condone the delay and to set aside the ex parte decree. The court disposed of the matter directing the petitioner herein to deposit 50% of the decree amount before the court within 3 weeks from 30.5.2007, failing which the applications shall stand dismissed without any further orders. I am informed that the amount has not been deposited and it is the contention of the learned counsel for the petitioner that his party was not in a position to deposit the amount and he was not in the station. Learned counsel would submit that his client is prepared to furnish security for the entire decree amount to the satisfaction of the court below. The purpose of directing the amount to be deposited is to ensure that the plaintiff, if ultimately succeeds, is able to enjoy the fruits of the decree. The same can be protected by direction to furnish security as well. I am sure that the petitions would have been dismissed as a corollary of the non compliance of the orders. But it is an interdependent order and any interference with the

main order may make other order also revive. I feel interest of justice can be served by directing the petitioner to furnish security for the decree amount to the satisfaction of the court.

Therefore, the orders under challenge are set aside and the petitioner herein is directed to furnish security for the entire decree amount to the satisfaction of the court below, that too, after giving notice to the plaintiff in the case. The security may be furnished within one month from today and till that time the court below shall not proceed with the execution proceedings.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-